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FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			LEE, TOMMY D	
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Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Amendment

1. This Office action is responsive to applicant's amendment filed January 3, 2006. Claims 31-40 are pending.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 31-38 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,361,143 (Nakayama et al., hereinafter Nakayama).

Regarding claims 31-34, Nakayama discloses an image processing apparatus comprising: an image reading unit adapted to read a document image (multi-color original reading means 1 (Fig. 1)); a file creating unit adapted to created a file in a memory, into which image data corresponding to the document image will be stored, and from which the image data will be transmitted in response to an instruction by a user (P file stores integrated data, data for blue color and those for a red color (column 4, lines 47-48; Figs. 2-a and 2-b); after reading operation, which includes storage of the read image data (column 4, lines 24-55), transmission of image data conducted (column 4, line 56 – column 5, line 35)); and a controller adapted to register the document image which was read by said image reading unit both as a color image data and as monochrome image data in the file which was created by said file creating unit (in multi-color mode, black (monochrome) data and color data read and stored (column 4, lines 26-48); in monochrome mode, only black data read and stored (column 4, lines 49-55)).

The image processing apparatus further comprises a transmission unit adapted to transmit image data to a destination apparatus, wherein said controller reads out one of the color image data to a destination apparatus, wherein said controller reads out one of the color image data and the monochrome image data stored in the file, which is suitable for the destination apparatus, and controls said transmission unit to transmit the read out image data to the destination apparatus (when other party is capable of multi-color printing, integrated data and data of each color transmitted (column 4, line 67 – column 5, line 3); otherwise, either only integrated data or monochrome data are transmitted (column 5, lines 21-28)); and a determining unit adapted to determine whether a document is one of a color document and a monochrome document (in automatic color selection mode, color contained in original identified through prescanning (column 4, lines 11-19)), wherein, when said determining unit determines that the document is a color document, said controller registers the document image both as the color image data and as the monochrome image data in the file, and when said determining unit determines that the document is a monochrome document, said controller registers the document image as the monochrome image data in the file (storage of both types when multi-color mode is judged (column 4, lines 26- 48); storage of monochrome data in monochromatic mode (column 4, lines 49-55)). Said image reading unit continuously reads image data for a plurality of documents (continuous scanning and storage until last page is reached (column 4, lines 56-61)).

Regarding claims 35 and 36, Nakayama discloses an image transmitting apparatus comprising: a memory adapted to store a document image as image data in

a plurality of formats in a file (P file stores integrated data, data for blue color and those for a red color (column 4, lines 47-48; Figs. 2-a and 2-b)); a file selection unit adapted for a user to select at least one of a plurality of files in said memory in which the image data corresponding to the document image will be stored and from which data will be transmitted in response to a selection by the user (color mode setting switch on operating unit (column 4, lines 20-23); after reading operation, which includes storage of the read image data (column 4, lines 24-55), transmission of image data conducted (column 4, line 56 – column 5, line 35)); a controller adapted to read out the image data, in a format suitable for a destination apparatus, from the file which was selected by a user through said file selection unit (when other party is capable of multi- color printing, integrated data and data of each color transmitted (column 4, line 67 – column 5, line 3); otherwise, either only integrated data or monochrome data are transmitted (column 5, lines 21-28)); and a transmitting unit adapted to transmit the image data read out by said controller to the destination apparatus (communication means 3 (Fig. 1)). Said memory stores the document image both as color image data and monochrome image data in the file (column 4, lines 40-48).

Regarding claim 37, Nakayama discloses a control method for an image transmitting apparatus which comprises an image reading unit adapted to read a document image, said method comprising the steps of: creating a file, selected by a user, in a memory into which image data corresponding to the document image will be stored, and from which image data will be transmitted (P file stores integrated data, data for blue color and those for a red color (column 4, lines 47-48; Figs. 2-a and 2-b); color

mode setting switch on operating unit (column 4, lines 20-23); after reading operation, which includes storage of the read image data (column 4, lines 24-55), transmission of image data conducted (column 4, line 56 – column 5, line 35)); and registering the document image which was read by said image reading unit both as color image data and as monochrome image data in the file (column 4, lines 40- 48).

Regarding claim 38, Nakayama discloses a control method for an image transmitting apparatus which comprises a memory adapted to store a document image as image data in a plurality of formats in a file, said method comprising the steps of: selecting a said file from which image data corresponding to the document image will be read out and transmitted (after reading operation, which includes storage of the read image data (column 4, lines 24-55), transmission of image data conducted (column 4, line 56 – column 5, line 35); file selected according to capability of receiving apparatus (column 4, line 67 – column 5, line 3)); reading out from the file, when selected by a user, the image data in a format suitable for a destination apparatus (determination made as to whether or not receiver is multi-color (step 62 (Fig. 8))); when other party is capable of multi-color printing, integrated data and data of each color transmitted (column 4, line 67 – column 5, line 3); otherwise, either only integrated data or monochrome data are transmitted (column 5, lines 21-28)); and transmitting the read out image data to the destination apparatus (steps 68, 69, 70).

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakayama.

Claims 39 and 40 recite a program storage medium storing a program for performing the steps of above-rejected claims 37 and 38, respectively. While Nakayama does not disclose a program storage medium, it is generally well known to one of ordinary skill in the art that processing steps are commonly stored as a program in a memory disk, or the like, to be read by a central processing unit of an apparatus, and it would have been obvious to provide a program storage medium in Nakayama, so as to enable the apparatus to perform the processing steps.

Response to Arguments

6. Applicant's arguments filed in response to the rejection of claims 31-38 under 35 U.S.C. 102(b) as set forth in the prior Office action have been fully considered but they are not persuasive.

Applicant asserts that Nakayama does not anticipate or render obvious instruction of selection by a user to create a file in a memory as set forth in the amended claims (see pages 7 and 8 of current amendment). Contrary to applicant's assertion, such selection is disclosed in Nakayama. As mentioned above, Nakayama provides a file creating unit adapted to create a file in a memory into which image data corresponding to the document image will be stored, and from which the image data will be transmitted in response to an instruction by a user (P file stores integrated data, data for blue color and those for a red color (column 4, lines 47-48; Figs. 2-a and 2-b); after reading operation, which includes storage of the read image data (column 4, lines 24-

55), transmission of image data conducted (column 4, line 56 – column 5, line 35)); and a controller adapted to register the document image which was read by said image reading unit both as color image data and as monochrome image data in the file which was created by said file creating unit (in multi-color mode, black (monochrome) data and color data read and stored (column 4, lines 26-48); in monochrome mode, only black data read and stored (column 4, lines 49-55)).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas D. Lee whose telephone number is (571) 272-7436. The examiner can normally be reached on Monday-Friday, 7:30-5:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on (571) 272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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tdl
March 24, 2006